

they don't have to work two or three jobs to try to make ends meet.

There is an important agenda ahead of us. I have touched on only a few items I hope we will consider. Now that we have this change in leadership in the Senate, it is important we address it on a bipartisan basis. It is a unique day in the history of the Senate. It is a unique challenge to all to rise above partisanship and put our country first.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. BUNNING). Without objection, it is so ordered.

### RECESS

Mr. WARNER. Mr. President, on behalf of the majority leader, TRENT LOTT, I ask unanimous consent that the Senate stand in recess until the hour of 1 o'clock.

There being no objection, at 12 noon, the Senate recessed until 1:02 p.m., and reassembled when called to order by the Presiding Officer (Mr. BUNNING).

The PRESIDING OFFICER. In my capacity as a Senator from Kentucky, I suggest the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### EXECUTIVE SESSION

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed in executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

### NOMINATION OF THEODORE BEVRY OLSON, TO BE SOLICITOR GENERAL OF THE UNITED STATES—MOTION TO DISCHARGE

Mr. LOTT. Mr. President, pursuant to the provisions of S. Res. 8, I now move to discharge the Judiciary Committee of the nomination of Ted Olson, to be Solicitor General of the United States.

The PRESIDING OFFICER. Under the provisions of S. Res. 8, the motion is limited to 4 hours of debate, to be equally divided between the two leaders.

Mr. LOTT. Mr. President, I note that the chairman of the Judiciary Committee, Senator HATCH, is here and ready to proceed. Therefore, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, as you know, we have been trying to make sure that the Justice Department has its full complement of leaders because if there is a more important Department in this Government, I don't know which one it is. There may be some that would rate equally but that Department does more to help the people of this country than any other Department.

One of the most important jobs in that Department is the Solicitor General's job. The Solicitor General is the attorney for the people. He is the attorney for the President. He is the attorney for the Department. He is the attorney who is to argue the constitutional issues. He is the attorney who really makes a difference in this country and who makes the primary arguments before the Supreme Court of the United States of America.

In addition, he has a huge office with a lot of people working to make sure this country legally is on its toes.

In the case of Ted Olson, I am very pleased that we are able to have this motion up at this time. I am pleased that we have colleagues with good faith on the other side who are willing to see that this is brought to a vote today because we should not hold up the nomination for the Solicitor General of the United States of America.

We have had all kinds of Solicitors General. We have had some who have been very partisan but have been great Solicitors General, and we have had some who have hardly been partisan at all and have been weak Solicitors General. We have had some not very partisan at all who have been great Solicitors General. You would have to make an analysis yourself to determine how your own personal philosophy fits.

But in terms of some great ones, there was Archibald Cox, who was never known for conservative politics. He was not very partisan by most Republicans' standards, but he turned out to be an excellent Solicitor General of the United States. We could go on and on.

But let me just say this, that it is interesting to me that Ted Olson has the support of some of the leading attorneys and law professors in this country who have the reputation of being active Democrats.

Let me just mention a few. And I really respect these gentlemen for being willing to come to bat for Ted Olson. Laurence Tribe, the attorney for former Vice President Gore, in *Bush v. Gore*, on March 5, 2001, said:

It surely cannot be that anyone who took that prevailing view—

He is referring to *Bush v. Gore*—and fought for it must on that account be opposed for the position of Solicitor General. Because Ted Olson briefed and argued his side of the case with intelligence, with insight, and with integrity, his advocacy on the occasion of the Florida election litigation, as profoundly as I disagree with him on the merits, counts for me as a plus in this context, not as a minus. If we set *Bush v. Gore* aside, what remains in Ted's case is an

undeniably distinguished career as an obviously exceptional lawyer with an enormous breadth of directly relevant experience.

I have known Laurence Tribe for a long time. I have a great deal of respect for him. I do not always agree with him, but one time he asked me to review one of his books. Looking back on that review, I was a little tough on Larry Tribe to a degree. But I spent time reading his latest hornbook just this last week, read it through from beginning to end—I think it was something like 1,200 pages—it was very difficult reading, and I have to say I came away after reading that hornbook with a tremendous respect for the legal genius of Larry Tribe.

Although I disagree with a number of his interpretations of constitutional law, there is no doubt about the genius and effectiveness of this man, and I think it is a tribute to him that he was willing to stand up for Ted Olson and write it in a letter.

Walter Dellinger is the former Clinton Solicitor General. He is one of the great lawyers of this country. He is a liberal and some thought he was extremely partisan, although I questioned that personally, just like I question those who say Ted Olson is partisan. No question that Walter Dellinger is a very strong and positive Democrat, a very aggressive Democrat. But he also is a man of great intelligence and integrity.

On February 5, 2001, Mr. Dellinger said that when Olson served in the Justice Department as the head of the Office of Legal Counsel, he "was viewed as someone who brought considerable integrity to the decisionmaking."

Virtually everybody who worked with Ted Olson at the Office of Legal Counsel—in fact, all that I know of—said he was a man of integrity who called them the way he saw them, who abided by the law and did not allow partisan politics to enter into any thinking. There are two offices where partisan politics could work to the detriment of our country.

One is the Office of Legal Counsel, which he handled with distinction, with ability, with fairness, in a nonpartisan way. The other is the Office of the Solicitor General, which I assert to this body he will handle in the same nonpartisan way. He will certainly try to do what is constitutionally sound and right. And he will represent the Congress of the United States in these battles. He may not always agree with the Congress of the United States when we are wrong, but you can at least count on him doing what is right and trying to make the best analysis and do what he should.

Now, Beth Nolan is a former Clinton White House counsel and Reagan Department of Justice, Office of Legal Counsel attorney. Beth is a considerable Democrat, and she is someone I respect. We have had our differences, but I have to say that she deserves respect. In a September 25, 1987, letter signed by other Department of Justice lawyers she had this to say: